THE HONOURABLE SRI JUSTICE GODA RAGHURAM

Writ Petition No.25181 of 2006

Dated:01st February, 2007

Between:

Mrs. Khorshed Shapoor Chenai
.....PETITIONER

AND

District Registrar,
Stamps and Registration,
Office of the District Registrar,
Red Hills, Hyderabad and another.
....RESPONDENTS

THE HONOURABLE SRI JUSTIC GODA RAGHURAM

W.P.No.25181 of 2006

ORAL ORDER:

Heard Shri V.Venkata Ramana, learned counsel for the petitioner and the learned Government Pleader for Revenue for the respondents.

Petitioner is aggrieved by two communications dated

28-11-2006 of the 2nd respondent, one of which read as under:

> "This is a Sale Deed executed on 28-10-2006 between Mrs. Khorshed Shapoor Chenai W/o. Late shapoor Rashid in favour of M/s. Maheshwari Megaventures Ltd., (formerly known as M/s. Ashish Developers and Builders Ltd.,) arepresented by its Managing Direct Sri Raj Kumar Malpani s/o Sri Jagdish Prasad Malpani, R/o. Hyderabad and its was admitted U/s 30 of The Registration Act of 1908 for registration after being presented by the Executant on 28-10-2006. <u>The document was kept pending for want of the report of prohibition for alienation on the property involved in this document lies i.e. Chikkadpally SRO.</u>
>
> On the strength of MRO., Musheerabad letter NO.C/6008/02 Dt:31-07-2004, the Sub Registrar, Chikkadpally through his letter No.992/2006 dated: 03-11-2006 has reported not to entertain any sale transaction in respect of land bearing Sy.Nos.157/1, 157/2, 157/3, 158/1 and 158/2 correlating to T.S.No.27, Block B Ward 76 of Bakaram village situated at Lower Tank Bund Road with the name and style of DBR Mills Ltd., as it is classified as "Mafi Dastagardhan Inam" as per Revenue records and no occupancy rights are confirmed on any body under the provisions of A.P (TA) Inam Abilition Act, 1955 and therefore the said

land is vested with the Government. Further he stated that as per the data furnished by the M.C.H. the Door No.1-2-630 is allotted to "D.B.R. Mills Ltd.

According to the above report, the registration of the document is therefore refused."

The deponent of the writ petition is a General Power of Attorney Holder of the writ petitioner under Registered Power of Attorney dated 19-9-2005 registered on the file of the

2nd respondent. The two refusal orders dated 28-11-2006 bearing refusal No.3 and 4 of 2006 decline to register a Development Agreement cum Irrevocable General Power of Attorney dated
27-10-2006 presented on 28-10-2006 (assigned pending document No.P.753/2006) and the sale deed dated 28-10-2006 presented on the same day, assigned pending document No.P.755/2006.

The reason recorded by the 2nd respondent for refusing registration is that on the basis of the letter of the M.R.O, Musheerabad dated 31-7-2004, the Sub Registrar, Chikkadpally by his letter dated 03-11-2006 had directed not to entertain any sale transactions in respect of land bearing Sy.Nos.157/1, 157/2, 157/3, 158/1 and 158/2 correlated to T.S.No.27, Block B, Ward 76 of Bakaram village situated at Lower Tank Bund Road in the name and style of DBR Mills Ltd., as the land is classified as "Mafi Dastagardhan Inam" as per the revenue records and no occupancy rights were conferred on any body under the provisions of the A.P (Telangana Area) Inam Abolition Act, 1955; thus the land vests in the government. This is not a ground to refuse registration

under the provisions of the Registration Act, 1908.

In ***Mandadi Nirmala v. District Collector, Hyd*** [1] a Division Bench of this Court has declared the position that under Section 17 of the Act the Registrar can refuse to register a document only on the grounds mentioned in the Act and cannot keep sale deeds pending without releasing them merely on the direction issued by a Mandal Revenue Officer. On the basis of the Division Bench decision, the impugned order of the 2nd respondent is clearly unsustainable. To the same effect is another decision of this Court in ***K.Sulochana v. District Collector and District Magistrate, Kurnool*** [2] wherein this Court deprecated the practice of the registering authority in declining registration of documents on the basis of the direction of the District Collector.

Responding to the writ petition the 2nd respondent filed a counter affidavit. To the extent relevant and material the counter affidavit states that the Mandal Revenue Officer, Musheerabad had informed that the property is part and parcel of DBR Mills Ltd., which is Inam land. It is also stated that after the DBR Mills became financially sick the matter was referred to B.I.F.R and the case is still pending before the B.I.F.R as B.I.F.R. Case No.109 of 1987. The answering respondent also states that no transfer of sale can take place as per the provisions of the Sick Industrial Companies (Spl. Provisions) Act, 1985. But, this is not a ground recorded in the impugned order of the 2nd respondent refusing to

register the documents presented by and on behalf of the petitioner. It requires to be noticed that the answering respondent also admits that in civil litigation O.S.No.69 of 2003 the competent civil court had recorded a compromise between the petitioner and DBR Mills where the DBR Mills divested itself of the tenancy of the said land in favour of the petitioner.

Another ground urged by the respondent for rejection of the registration is an appeal lies to the Registrar, under Section 72 of the Registration Act. This contention does not commend acceptance by this Court. As the 2nd respondent has refused to register the documents presented by the petitioner on the basis of a direction issued by the Mandal Revenue Officer, Musheerabad, clearly a ground which is irrational and unsustainable in view of the Judgments of this Court referred to supra, the petitioner need not seek the appellate remedy. The 2nd respondent is seen to have acted in violation of the law declared by this Court. Therefore, he is entitled to judicial review of the 2nd respondent's orders.

Accordingly, the writ petition is allowed. The orders of the

2nd respondent, both dated 28-11-2006 refusing registration of documents Nos. P.753/2006 and P.755/2006 are quashed. The respondents, in particular the 2nd respondent shall entertain the documents and accord registration under the provisions of the Registration Act, 1908, if otherwise in order and without

in any manner being influenced by any communication of the Mandal Revenue Officer, Musheerabad. No costs.

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(GODA RAGHURAM,J)

Date:01st February, 2007.
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THE HONOURABLE SRI JUSTICE GODA RAGHURAM

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[1] 2000 (2) ALD 725 (DB)

[2] 2005 (4) ALD 539